

ORIGINAL

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations.)
(Park City, Wyoming, Miles City,)
Montana, and Byron, Wyoming)

MM Docket No.
RM-

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Federal Communications Commission
Office of the Secretary

To: Chief, Policy and Rules Division

PETITION FOR RULEMAKING

Ruby Radio Corporation ("Ruby"), licensee of Station KCLS which operates on Channel 269C3 at Ely, Nevada, hereby petitions to amend Section 73.202(b) of the Commission's Rules (Table of FM Allotments) to (i) substitute Channel 269C1 for Channel 269C3 at Ely, Nevada, (ii) upon making the channel substitution to reallocate Channel 269C1 from Ely, Nevada to Spring Creek, Nevada, as that community's first local aural service, and (iii) to modify the license for Station KCLS to specify operation on Channel 269C1 at Spring Creek.

Attached hereto is an Engineering Statement prepared by the firm of Hatfield & Dawson which establishes that the proposed reclassification of Station KCLS' channel and the re allotment of the reclassified channel to Spring Creek, Nevada, complies fully with the Commission's FM channel allotment rules. The Engineering Statement also shows that:

(i) The relocation of Station KCLS from Ely to Spring Creek will not result in the creation of any white or grey areas;

(ii) while the change of Station KCLS' channel of operation and relocation of the Station to Spring Creek will result in 8,336 persons and a geographic area of 4,803 km² losing service from KCLS, this loss is more than offset by the fact that 35,872 persons and an area of 16,422 km² will gain service from KCLS for a net gain of gain of service to 27,536 persons in a 11,619 km² area;

(iii) Spring Creek, Nevada, is not located in any urbanized area and the proposed modification of Station KCLS' channel and relocation of the station to Spring Creek will not result in the station providing 70 dbu service to any portion of any urbanized area; and

(iv) after KCLS is relocated to Spring Creek, as that community's first aural service, Ely, Nevada will continue to receive local service from Stations KDSS and Station KELY:


Spring Creek, Nevada, is a Census Designated Place and the 2000 Census placed Spring Creek's population at 10,548. The Elko County Economic Development Authority projects that the population will increase to 15,620 by 2008. Although Spring Creek, Nevada, is not incorporated, it is a community with a distinct identity eligible for its own FM allotment. Spring Creek has its own post office and zip code and its own

elementary, middle and high schools. Its retail and service businesses include two supermarkets, two gas stations, a casino, several taverns and restaurants, three real estate companies, a TV store, several general merchandise stores, two newspapers, a pharmacy, a floral and gift shop and an internet service provider. According to the Chamber of Commerce, the community has more than 40 home-based businesses. Spring Creek has a number of local churches, a golf course, a shooting range, and maintains its own water and sewer system.

If the channel allotments proposed in this Petition are adopted, Ruby will promptly apply for a construction permit to implement the change of Station KCLS' Channel to 269C1 and to change its city of license to Spring Creek, Nevada

WHEREFORE, for the foregoing reasons, it is respectfully submitted that adoption of the changes in the Table of FM allotments proposed herein would serve the public interest.

Respectfully submitted,

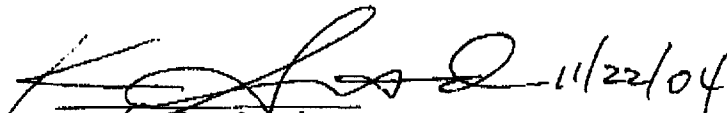

~~David Tillotson~~
Law Office of David Tillotson
4606 Charleston Terrace, N.W.
Washington, DC 20007-1911
Tel: 202-625-6241
Attorney for Ruby Radio
Corporation

Date: November 22, 2004

DECLARATION OF KEN SUTHERLAND

Ken Sutherland states under penalty of perjury as follows:

1. I am the President of Ruby Radio Corporation.
2. The facts regarding the community of Spring Creek, Nevada, were gathered by me through on site visits to the community and from literature describing the community provided to me by Elko County Economic Development Authority and such facts are true and correct to the best of my knowledge and belief.


Ken Sutherland

JAMES B. HATFIELD, PE
BENJAMIN F. DAWSON III, PE
THOMAS M. ECKELS, PE
STEPHEN S. LOCKWOOD, PE
DAVID J. PINION, PE

PAUL W. LEONARD, PE
ERIK C. SWANSON, EIT
THOMAS S. GORTON, PE

HATFIELD & DAWSON
CONSULTING ELECTRICAL ENGINEERS
9500 GREENWOOD AVE. N.
SEATTLE, WASHINGTON 98103

TELEPHONE
(206) 783-9151
FACSIMILE
(206) 789-9834
E-MAIL
hatdaw@hatdaw.com
MAURY L. HATFIELD, PE
CONSULTANT
BOX 1326
ALICE SPRINGS, NT 5950
AUSTRALIA

ENGINEERING STATEMENT

**PETITION FOR RULEMAKING TO
AMEND SECTION 73.202 OF THE RULES
AND REGULATIONS FOR THE FEDERAL
COMMUNICATIONS COMMISSION**

**TO ASSIGN FM CHANNEL 269C1
FOR USE AT SPRING CREEK, NV**

RUBY RADIO CORPORATION

11/2004

Engineering Statement

This Engineering Statement has been prepared on behalf of Ruby Radio Corporation ("RRC"), licensee of station KCLS Channel 269C3 at Ely, Nevada, in support of a Petition for Rulemaking to amend §73.202 of the Commission's Rules to substitute Channel 269C1 for Channel 269C3 at Ely, reallocate Channel 269C1 from Ely to Spring Creek, Nevada, and modify the license of station KCLS to specify operation on the upgraded channel at Spring Creek.

The proposed reallocation plan will provide the first local service to Spring Creek, a Census Designated Place with a 2000 Census population of 10,548 persons. In addition, 35,872 persons in a 16,422 sq km area will receive an additional aural service, with a net gain of 27,536 persons in a 11,619 sq km area. In accommodating these benefits, no white or gray areas will be created.

Schematically, the proposal is as follows:

Community	Present	Proposed
Ely, NV	224C2, 269C3	224C2
Spring Creek, NV	---	269C1

Channel 269C1 at Spring Creek

As outlined in the attached channel study, Channel 269C1 can be assigned for use at Spring Creek in compliance with the Commission's applicable Rules and Regulations regarding the

Hatfield & Dawson Consulting Engineers

separation among FM allotments, with no other changes required to the FM Table of Allotments. For this study the coordinates of RRC's preferred transmitter site at N40-55-18 W115-50-58 have been used. This site is 39 kilometers from the far side of Spring Creek. The nominal distance to the 70 dBu F(50,50) contour for a Class C1 station is 50 kilometers. Therefore, this site will provide greater than 70 dBu coverage for all of Spring Creek.

Ely will retain local service from stations KDSS Channel 224C2 and KELY 1230 kHz.

Gain and Loss Areas

The proposed reallocation plan will involve a transmitter site change. There is no overlap between the 60 dBu contours of the proposed allotment of Channel 269C1 at Spring Creek and the present allotment of Channel 269C3 at Ely. The gain area will encompass 16,422 km² and a 2000 Census population of 35,872 persons. The loss area will encompass 4,803 km² and a 2000 Census population of 8,336 persons.

There will be a net gain of service to 27,536 persons in a 11,619 sq km area.

The proposed reallocation plan will not result in the creation of any white or gray areas. Stations KWPR 204C1 Lund and KDSS 224C2 Ely each provide 60 dBu service to 100% of

the loss area¹. In addition, station KELY 1230 kHz Ely (nighttime interference-free contour 17.9 mV/m) provides service to a portion of the loss area.

An underserved area will remain in the Ely loss area. A total of 3,349 persons in a 4,733 sq km area will be left with two aural services, while 4,987 persons in a 70 sq km area will be left with three aural services. This underserved area and population qualifies under Priority four; by contrast the provision of a first local service at Spring Creek qualifies under Priority three, and is therefore preferred.²

Tuck Analysis

The allotment of Channel 269C1 at Spring Creek will not provide 70 dBu service to any portion of any Urbanized Area listed in the 2000 Census. Spring Creek is not located within any Urbanized Area. Based upon these circumstances, no "Tuck" analysis is believed to be required in support of the proposed reallocation plan.

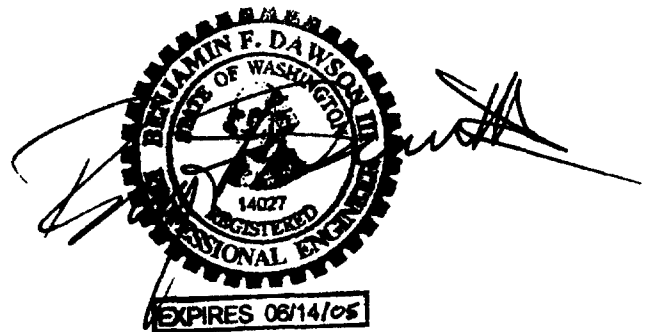
¹In determining reception service provided by FM stations, the area of service circumscribed by the station's 1.0 mV/m signal contour was considered, assuming 1) actual facilities for non-commercial stations operating on reserved channels, 2) maximum facilities for the class of station for stations (other than Class C stations) operating on non-reserved channels, and 3) minimum or existing Class C facilities, whichever is greater, for Class C stations. For clear channel Class A AM stations, the service area was defined by the station's 0.5 mV/m groundwave contour, based on its licensed facilities. For all other classes of full-time AM stations, reception service was defined as that service received within a station's nighttime interference-free contour. See Meeker and Craig, Colorado, 15 FCC Rcd 23858 (2000), Stamps and Fouke, Arkansas, 14 FCC Rcd 10533 (1999), Silverton and Bayfield, Colorado, 14 FCC Rcd 4071 (1999), Malvern and Bryant, Arkansas, 13 FCC Rcd 8426 (1998), and others.

²See Revision of FM Assignment Policies and Procedures, 90 FCC 2D 88,91 (1988). The FM Allotment priorities are: (1) first full-time aural service, (2) second full-time aural service, (3) first local service, 4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

Statement of Engineer

This Engineering Statement supporting a Petition for Rulemaking to revise the Table of Allotments at Ely and Spring Creek, Nevada, has been prepared by Erik C. Swanson under my direct supervision. All representations herein are true to the best of my knowledge. I am an experienced radio engineer whose qualifications are a matter of record with the Federal Communications Commission. I am a partner in the firm of Hatfield & Dawson Consulting Engineers and am Registered as a Professional Engineer in the States of Washington and California.

Signed this 15th day of November, 2004.



Benjamin F. Dawson III, P.E.

Erik C. Swanson

Hatfield & Dawson Consulting Engineers

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SEARCH PARAMETERS FM Database Date: 041110

Channel: 269C1 101.7 MHz Page 1
 Latitude: 40 55 18
 Longitude: 115 50 58
 Safety Zone: 32 km
 Job Title: SPRING CREEK 269C1

Call Status	City St	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-True	Dist (km)	Req (km)
K216BB LIC	ELKO, ETC. NV	BLFT-870203TB	216D 91.1	0.046 DA 461.0	40-49-16 115-42-04	131.8	16.76 0.00	0 TRANS
K266AB LIC	ELKO NV	BLFT-930622TC	266D 101.1	0.021 DA 403.0	40-49-16 115-42-04	131.8	16.76 0.00	0 TRANS
VAC	TWIN FALLS ID	-	269A 101.7	0.000 0.0	42-33-42 114-28-12	31.7	215.28 15.28	200 CLEAR
KCLS APP	ELY NV	BPH-040607AFU	269C3 101.7	3.500 266.0	39-15-52 114-53-35	155.9	201.27 -9.73	211 SHORT
KCLS LIC	ELY NV	BLH-871208KF	269A 101.7	0.480 245.0	39-15-52 114-53-35	155.9	201.27 1.27	200 CLOSE
KCLS RSV	ELY NV	-	269C3 101.7	0.000 0.0	39-15-52 114-53-35	155.9	201.27 -9.73	211 SHORT
KCLS APP	ELY NV	BPH-041108AAM	269C3 101.7	3.500 266.0	39-15-52 114-53-35	155.9	201.27 -9.73	211 SHORT
KVUW APP	WENDOVER NV	BPH-041014AEQ	272C 102.3	51.000 600.0	41-07-19 114-34-02	77.9	110.12 5.12	105 CLOSE
KVUW RSV	WENDOVER NV	-	272C 102.3	0.000 0.0	41-07-19 114-34-02	77.9	110.12 5.12	105 CLOSE

===== END OF FM SPACING STUDY FOR CHANNEL 269 =====

